REMARKS

In the Office Action under reply, the Examiner has rejected the pending claims as follows:

1. Under 35 U.S.C. §112, first paragraph, as lacking enabling disclosure in the specification (claims 1, 2, 4, 6-13, and 28-35);
2. Under 35 U.S.C. §102(b) as anticipated by Hataba (claims 36 and 63); and
3. Under 35 U.S.C. §103(a) as obvious in view of Hataba (claims 36, 38, 39, 41, and 63).

Claims 42-47 and 63 were indicated as allowable save for their dependency on rejected claims.

In the present amendment, claims 6, 11, 28-33, 38, and 41 have been canceled and claims 3, 7, 12, 13, 34, 36, 39, and 42 have been amended. Thus, claims 1, 3, 4, 7-10, 12, 13, 34-36, 39, 42-47, and 63 are now pending. The Examiner's rejections and objections are addressed in full by the above amendments.

The Amendments to the Claims:

Independent claim 1 has been amended to specify that the claim is direct to methods for treating or preventing atherosclerosis. Support for this amendment can be found throughout the specification and in the claims as originally filed.

Method claims 28-33 have been cancelled. Cancellation of these claims is without prejudice, without intent to acquiesce in any rejection of record, and without intent to abandon any previously claimed subject matter.

Claim 11 has been cancelled as redundant in view of claim 8. The dependency of claims 12 and 13 has been accordingly amended.

Claim 34 has been amended to place it into dependent form off claim 1.

Claims 1 and 36 have been amended to specify that within Formula I, A is a covalent bond, R^1 and R^2 are hydrogen. Within claim 36, the definition of R^4 has been amended to exclude hydrogen. Redundant proviso language has also been removed. Claims 6, 38 and 41 have been accordingly cancelled, claim 3 amended, and the dependency of claims 7, 9 and 42 has been amended.

It is to be noted that Applicants have made these amendments only in the interest of expediting prosecution and expressly reserve the right to pursue claims to any excluded subject matter in later continuing and/or divisional applications.

Accordingly, no new matter has been added and entry of the new claims is in order.

The Rejection Under 35 U.S.C. §112, First Paragraph:

Method claims 1, 2, 4, 6-13, and 28-35 have been rejected as lacking enabling disclosure in the specification. As claims 6, 11, and 28-33 have been cancelled, the rejection as it pertains to these claims is now moot. With respect to the remaining rejected claims, the Examiner has asserted that "while enabling for treating atherosclerosis, [the specification] does not reasonably provide enablement for treating all other disease state; diseases; or conditions encompassed by the instant claims."

While not necessarily agreeing with the Examiner's position, in the interest of expediting prosecution, applicants have amended the current method claims so that they are directed to methods of treating and preventing atherosclerosis. Applicants respectfully request reconsideration and withdrawal of the rejection.

The Rejections Under 35 U.S.C. §102(b):

Claims 36 and 63 have been rejected over Hataba. The Examiner has cited the reference for its disclosure 1,3,5-triazine-2(1*H*)-thione, 4-amino-6-[(2-naphthalenyloxy)methyl]-(9Cl). As independent claim 36 has been amended to exclude hydrogen from the R^4 position, the referenced compound is no longer within the scope of the pending claims and does not constitute an anticipatory disclosure. Reconsideration and withdrawal of the rejection are accordingly in order and are hereby requested.

The Rejections Under 35 U.S.C. §103(a):

Claims 36, 38, 39, 41, and 63 have been rejected over Hataba. As discussed above, the Examiner has cited the reference for its disclosure 1,3,5-triazine-2(1*H*)-thione, 4-amino-6-[(2-naphthalenyloxy)methyl]-(9Cl) and has asserted that this compounds renders the subject matter of the rejected claims obvious. Applicants disagree.

The Examiner has based the rejection on the premise that the compound disclosed in Hataba is a homologue of the claimed compounds. That is, the Examiner has asserted that as the compounds of the present invention and the compounds of Hataba differ only in the substitution of an alkyl group for a hydrogen atom, a difference, according to the Examiner, of only a CH_2 group. This is not the case.

Hataba discloses a compound having a dependent =S thione group located at the 4 position of the triazine core. While this compound may form the 4-thiol tautomer, this tautomer can in no way be considered an alkthio homologue. As the Examiner is aware, these are two entirely different moieties having entirely different properties.

As discussed in *In re Haas* and *In re Henze*, a homologous series is a family of chemically related compounds, the composition of which varies from member to member by CH_2 (one atom of carbon and two atoms of hydrogen). The present compounds differ from member to member by a CH_3 group and are not simple homologues. The addition

of a methyl or longer alkyl group to a thiol moiety drastically alters the reactive properties of the altered moiety and of the compound as a whole. This is not the simple substitution of an ethylene chain for a methylene or propylene chain envisioned by *In re Haas* and *In re Henze.*

Given the clear differences between the compound disclosed in Hatabe and the claimed compounds, *prima facie* obviousness does not exist. The rejection is in error and its reconsideration and withdrawal are respectfully requested.

CONCLUSION

For the foregoing reasons, applicant submits that the claims comply with the requirements of 35 U.S.C. §§112, 102(b), and 103(a) and are in condition for allowance. A Notice of Allowance is requested, and a prompt mailing thereof would be much appreciated.

Should the Examiner have any questions regarding this amendment, he or she is welcomed to contact the undersigned attorney at (650) 384-8755.

Respectfully submitted,

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By: _____

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